

**BEFORE THE APPEALS BOARD
FOR THE
KANSAS DIVISION OF WORKERS COMPENSATION**

AIMEE J. HOPKINS)	
Claimant)	
VS.)	
)	Docket No. 241,994
MEDICALODGE OF DOUGLASS)	
Respondent)	
AND)	
)	
TRAVELERS INSURANCE COMPANY)	
Insurance Carrier)	

ORDER

Respondent and its insurance carrier request review of the preliminary hearing Order entered by Administrative Law Judge Nelsonna Potts Barnes on April 22, 1999.

ISSUES

The Administrative Law Judge ordered the respondent and its insurance carrier to provide medical treatment for an alleged January 20, 1999 injury. The respondent and its insurance carrier request review of the finding that claimant's injury arose out of and in the course of claimant's employment with respondent.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

After reviewing the testimony given at the preliminary hearing held April 13, 1999, the exhibits admitted into evidence and the briefs of the parties, the Appeals Board finds that the Order of the Administrative Law Judge should be affirmed.

Claimant testified she was injured on January 20, 1999 while assisting the charge nurse, Sue Allen, with a difficult patient. The patient grabbed her arm and bent it backwards. Claimant immediately informed Sue Allen, who was her supervisor, of her injury but continued to work the remainder of her shift. That night her arm continued to bother her and at approximately 1:30 a.m. on January 21, 1999 claimant went to the emergency room at Augusta Medical Complex, Inc. X-rays were ordered which revealed an incomplete fracture of the neck of the radius. The medical records of Augusta Medical Complex, Inc., reflect claimant reported a work-related injury. Likewise, the records of Jill Johnson-Smith, R.P.A., who saw claimant on January 22, 1999, contain a history of the injury having occurred at work when grabbed by a patient.

But the record also contains testimony and statements that conflict with claimant's version of events. Rebecca Hess, administrator at Medicalodge of Douglass, investigated the alleged accident and obtained written statements from witnesses, some of which were inconsistent with claimant's assertion that her injury was work related. Due to this conflicting testimony, the credibility of the witnesses becomes an important consideration. The Administrative Law Judge apparently found claimant to be a credible witness because she awarded benefits based largely upon claimant's testimony, finding that claimant suffered injury by accident on the date alleged which arose out of and in the course of claimant's employment. The Administrative Law Judge, in this case, had the opportunity to see the in-person testimony of the claimant and one of respondent's witnesses. She therefore had an opportunity to judge these witnesses' demeanor and credibility while they were testifying. Accordingly, the Appeals Board takes into consideration the Administrative Law Judge's findings with regard to the credibility of the claimant as a witness and will give some deference to her conclusions in that regard.

Claimant's delay in seeking medical treatment, coupled with her actions at work after her accident and her inconsistent statements to her co-workers, cause concern. But, the record also contains claimant's explanation of these events. Based upon the record compiled to date, the Board finds that the Order by the Administrative Law Judge should be affirmed.

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the April 22, 1999 Order by Administrative Law Judge Nelsonna Potts Barnes should be, and the same is hereby, affirmed.

IT IS SO ORDERED.

Dated this ____ day of August 1999.

BOARD MEMBER

c: Phillip B. Slape, Wichita, KS
William L. Townsley, Wichita, KS
Nelsonna Potts Barnes, Administrative Law Judge
Philip S. Harness, Director